

REMARKS

Entry of the foregoing, and reexamination and reconsideration of the subject application, as amended, and in light of the remarks which follow, are both respectfully respected.

Claims 4-5 and 7-8 were pending in the present application at the time of the Office Action. The Patent Office rejected claims 4-5 and 7-8 under 35 U.S.C. § 102(b) as purportedly being anticipated by U.S. Patent No. 4,417,638 to Harvey. Claims 4 and 8 have been amended herein. Support for these amendments can be found, at the very least, at page 2, lines 6-8 of the subject application. New claim 9 has been added, support for which can be found, at the very least, at page 2, lines 9-11, page 4, lines 19-20, and page 5, lines 2-6, and inherently throughout the subject application. Applicant respectfully submits that claims 4, 8 and 9 are patentable over the cited art and other art of record. Thus, Applicant respectfully submits that claims 4, 8 and 9 are in condition for allowance, as well as claims 5 and 7 which depend from claim 4.

I. The Claims Define Patentable Subject Matter

A. Claim 4

Claim 4 is directed to a patient levitation apparatus for a patient comprising a patient board having a patient side and a bottom. The patient board is approved for use in a hospital. A plenum member is attached to the bottom of the patient board. The plenum member is adapted to receive a flow of pressurized air through an intake port. The patient board has an intake port hole adapted for receiving the intake port. The plenum member is further adapted to release the

flow through a plurality of holes in the plenum member to provide a layer of air below the patient board supporting the patient.

B. The Harvey '638 Patent

The Harvey '638 patent is directed to an air inlet and air dispersion grommet for an air pallet material handling system. According to Harvey, the system includes a planar rigid backing member and a thin flexible sheet member including a bottom portion bearing perforations. The sheet member forms a plenum chamber for retaining pressurized air between the bottom portion of the sheet member and the backing member. The grommet is mounted to the backing member, and comprises a hollow annular body sealably fixed to the backing member, and opening to the plenum chamber. Air is inserted through the grommet and into the plenum chamber to create a thin air film for supporting a load for frictionless movement over an underlying supporting surface.

C. Claim 4 is Patentable Over Harvey

It is well settled that for a claim to be anticipated, each and every element of that claim must be shown in a prior art reference, either explicitly or under principles of inherency. *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997).

The present invention differs from Harvey, at the very least, in that the present invention provides a patient board approved for use in a hospital, whereas Harvey simply states that rigid backing member 22 may constitute a rectangular plywood sheet. Harvey does not disclose, teach

or suggest that backing member 22 is approved for use in a hospital. This difference facilitates the use of the claimed system in a hospital context.

Applicant, therefore, respectfully submits that the rejection of claim 4 under 35 U.S.C. §102(b), as purportedly being anticipated by Harvey, should be withdrawn, and claim 4 is in condition for allowance. Accordingly, the rejections of claims 5 and 7, which variously depend on claim 4, should be withdrawn and these claims placed in condition for allowance. Similarly, for reasons stated above, the rejection of claim 8 under 35 U.S.C. §102(b), as purportedly being anticipated by Harvey, should be withdrawn and these claims placed in condition for allowance.

C. Claim 9 is Patentable Over Harvey

Claim 9 differs from Harvey, at the very least, in that it provides a patient board adapted for use on a hospital bed, whereas Harvey simply states that rigid backing member 22 may constitute a rectangular plywood sheet. Harvey does not disclose, teach or suggest that backing member 22 is adapted for use on a hospital bed. This difference facilitates the use of the claimed system in a hospital context. Applicant, therefore, respectfully submits that claim 9 is in condition for allowance.


CONCLUSION

Applicant respectfully submits that this application is in condition for allowance, and reconsideration and allowance of the application is respectfully requested. If the Examiner believes that prosecution might be advanced by discussing the application with Applicant's counsel, in person or over the telephone, we would welcome the opportunity to do so.

The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§1.16, 1.17 and 1.21 that may be required by this submission to Deposit Account No. 50-0206.

Respectfully submitted,

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